

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Plaintiff,

v.

JEFF S. SMITH,

Defendant.

Case No. 7-17-cv-05808 (CS) (PED)

**[PROPOSED] ORDER TO VACATE
TEMPORARY RESTRAINING ORDER
AND DENY IBM'S REQUEST FOR A
PRELIMINARY INJUNCTION OR, IN
THE ALTERNATIVE, TO PRECLUDE
IBM FROM PRESENTING EVIDENCE
AT THE PRELIMINARY INJUNCTION
HEARING**

THIS MATTER having been opened to the Court upon the Motion of Morgan, Lewis
& Bockius LLP, counsel for Defendant Jeff Smith,

IT IS on this ____ day of _____, 2017,

ORDERED that the Temporary Restraining Order issued in the above-captioned matter
is VACATED and

IT IS FURTHER ORDERED that Plaintiff International Business Machines
Corporation's Motion for a Preliminary Injunction is **DENIED**.

[IT IS FURTHER ORDERED that Plaintiff International Business Machines
Corporation is precluded from presenting evidence at the preliminary injunction hearing on
August 21 and 24, 2017.]

Dated: _____, 2017
White Plains, New York

Hon. Cathy Seibel, U.S.D.J.